

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0341-01
Bill No.: HB 52
Subject: Taxation and Revenue - Sales and Use; Annexation; Counties; Tourism
Type: Original
Date: February 15, 2011

Bill Summary: Would implement the Streamlined Sales and Use Tax Agreement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(\$118,831) to More than \$100,000	(\$115,760) to More than \$100,000	(\$116,940) to More than \$100,000
Total Estimated Net Effect on General Revenue Fund	(\$118,831) to More than \$100,000	(\$115,760) to More than \$100,000	(\$116,940) to More than \$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Aviation Trust	(\$6,000,000)	(\$6,000,000)	(\$6,000,000)
Conservation Commission	More than \$100,000	More than \$100,000	More than \$100,000
Parks, and Soil and Water	More than \$100,000	More than \$100,000	More than \$100,000
School District Trust	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on <u>Other</u> State Funds	(\$6,000,000) to More than \$100,000	(\$6,000,000) to More than \$100,000	(\$6,000,000) to More than \$100,000

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	3	3	3
Total Estimated Net Effect on FTE	3	3	3

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	(Unknown) to More than \$100,000	(Unknown) to More than \$100,000	(Unknown) to More than \$100,000

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Conservation (MDC)** assume this proposal would implement the provisions of the Streamlined Sales and Use Tax Agreement. The proposal may benefit the Department in that Conservation sales tax collections may increase. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation sales tax.

The fiscal impact to MDC is unknown but greater than \$100,000. Any increase in sales and use tax collected would increase revenue to the Conservation sales tax funds.

ASSUMPTION (continued)

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume this proposal would not result in additional costs or savings to their organization. This proposal would require the adoption and implementation of the Streamlined Sales Tax Agreement, to become effective Jan. 1, 2012.

BAP does not have an estimate of the sales tax revenues to be gained from this proposal, but notes that many sales that occur via e-commerce or other remote sellers would be subject to sales tax under this agreement. Two studies of the revenues that Missouri might gain from collecting sales tax on e-commerce provide an estimated range of \$108 million (Eisanach & Litan, Feb. 2010) and \$210 million (Bruce, Fox, & Luna, April 2009). Both studies are limited to the gains from e-commerce, and do not attempt to estimate other remote sales.

This proposal would increase general and total state revenues, and local revenues. Section 32.086 would create a 1% collection fee for local sales taxes collected by DOR. This fee would be deposited in GR to offset DOR's costs. This will increase general and total state revenues by an unknown amount.

Officials from the **Department of Economic Development, Division of Tourism, and Public Service Commission** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Department of Revenue** (DOR) assume this proposal would have the following impact on their organization.

Section 32.070 would require DOR to enter into the streamlined sales and use tax agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. DOR would create the regulations necessary to implement the provisions of the Streamlined Sales Tax Agreement in Missouri.

DOR officials noted and described a large number of additional provisions in the proposal regarding the administration of local sales and use taxes, and technical requirements for implementing the Streamlined Sales and Use Tax Agreement.

ASSUMPTION (continued)

Administrative cost

DOR and ITSD-DOR would need to make significant changes to the Missouri Sales Tax System (MITS), the Cashiering Transmittal system and the Fuel Tax System. In addition, an electronic filing application for sales tax will need to be created, and DOR would need to make changes to forms.

DOR officials assume that excise tax would require two additional FTE Revenue Processing Technicians I (Range 10, Step L) for return processing because Excise Tax would have to determine where each delivery was made in order to properly figure the sales tax to be deducted from refund claims. Some invoices may be for fuel delivered at the retail station and others may be for fuel delivered to other locations. The Department would also need to know if the fuel is delivered inside city limits or outside city limits or even if the retail station is inside or outside city limits. This would require a great deal of processing time and effort as many refund claims contain hundreds of invoices, which would need to be reviewed individually.

DOR also assumes that Sales Tax would require one FTE additional Management Analyst Specialist I (Range 23, Step N). DOR does not envision an FTE impact for the Sales Tax area, but rule writing will create a significant impact for which we will need additional managerial assistance.

The DOR estimate of administrative cost to implement this proposal including three additional FTE and the related fringe benefits, equipment, and expense amounted to \$140,252 for FY 2012, \$147,886 for FY 2013, and \$149,410 for FY 2014.

Oversight assumes that the Streamlined Sales and Use Tax Agreement would apply primarily to retail transactions by sellers which do not currently have a physical location in the state. Those retailers which do not currently have a physical location in the state would be required to report taxable sales and remit sales tax on Missouri sales. This requirement would likely increase state sales tax collections but the number of current filers would not likely change. Therefore the proposal would not likely have a significant impact on Department of Revenue staffing for sales and use tax processing.

ASSUMPTION (continued)

This proposal would also require the state and every political subdivision to adopt, implement, and incorporate by reference all provisions contained within the streamlined sales and use tax agreement. Changes in state regulations would be required to eliminate current regulations which conflict with Streamlined Sales and Use Tax Agreement provisions. It would also appear that new DOR regulations would be required to reference the provisions of the Streamlined Sales and Use Tax Agreement on a statewide basis in order to preserve the uniformity of regulations applicable to all sales in the state.

Finally, Oversight notes that retail entities with a physical presence in the state are currently using a set of systems and procedures created and operated by DOR. If those retailers were permitted to use the Streamlined Sales and Use Tax Agreement reporting and payment systems, there could be a reduction in the number of returns filed and revenue collected under current procedures. That could allow a reduction in DOR resources applied to sales tax processing but the number of filers and the amount which might be collected can not be estimated, and that process would likely not begin until after FY 2014.

Oversight will include three additional DOR employees in this fiscal note and has, for fiscal note purposes only, changed the starting salary for the new positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period, and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has adjusted the DOR estimate of expense and equipment costs in accordance with OA budget guidelines, and assumes that a limited number of additional employees could be accommodated in existing office space.

Oversight also assumes the DOR estimate of expense and equipment cost for additional FTE could be overstated. If DOR is able to use existing equipment such as desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2012 could be reduced by roughly \$5,000 per employee.

ASSUMPTION (continued)

IT cost

DOR officials also provided an estimate of the IT cost to implement the proposal. DOR officials estimated the cost at \$95,612 based on 3,608 hours to make programming changes to the sales tax processing system (MITS).

Oversight assumes ITSD-DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes ITSD-DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, ITSD-DOR could request funding through the appropriation process.

Officials from the **Department of Transportation** (MODOT) assume this proposal would amend the sunset date for section 144.805 RSMo from December 31, 2013 to January 31, 2011. If this bill is enacted as drafted, aviation fuel sales taxes would no longer be deposited into the Aviation Trust Fund, because section 155.090 RSMo, which creates the Fund, only references aviation use taxes. That change would have a negative impact upon the MODOT Aviation Section, because the section would no longer receive aviation fuel sales taxes. Over the past three years, the fund has collected approximately \$6 million from the sale of jet fuel and a 9 cent per gallon tax on aviation gasoline

In addition, section 238.235 RSMo is amended which relates to sales taxes for Transportation Development District (TDDs). Currently, the Department of Revenue (DOR) is responsible for TDD sales tax collection. This proposal would allow DOR to retain 1% of all TDD sales taxes collected as its cost of collection, which would be deposited into the GRF. This change would not have a fiscal impact on MoDOT, but it would reduce the amount of sales tax proceeds available to TDDs for their transportation projects.

Oversight notes that this proposal would move the sunset date for use tax deposits to the Aviation Trust Fund from December 31, 2013 to January 31, 2010 and will indicate a revenue reduction of \$6 million per year for the Aviation Trust Fund. In addition, Oversight will indicate an unknown increase in revenue for the General Revenue Fund for DOR collection fees and a corresponding reduction in revenue for local governments.

ASSUMPTION (continued)

Officials from the **Department of Elementary and Secondary Education** (DESE) assume this proposal would have a potential impact on the revenue stream of state and local governments; however DESE officials have no means to calculate that impact.

Officials from the **Department of Natural Resources** (DNR) assume this proposal would implement the Streamlined Sales and Use Tax Agreement. DNR officials assume that state funds which receive sales taxes would have additional funds from the implementation of this agreement, and assume the Department of Revenue would be better able to estimate the fiscal impact of the proposal.

Officials from **Cass County** assume this proposal would impact local sales tax revenues but county officials are not sure of the impact.

Officials from the **City of Kansas City** assume this proposal could have a positive fiscal impact on their organization but such impact is impossible to quantify.

Officials from the **City of Webb City** assume this proposal could result in a significant increase in local sales tax revenues. City officials estimated that as much as \$550,000 per year in additional revenues could be collected.

Officials from the **City of West Plains** assume this proposal could have a positive impact on the city of unknown amount.

For fiscal note purposes, **Oversight** will indicate additional revenue in excess of \$100,000 per year for those state funds that receive sales tax revenues, and for local governments. Oversight will include an unknown increase in collection fees to the General Revenue Fund for collection fees on local taxes not currently subject to the 1% withholding, and Oversight will include an unknown reduction to local governments for that additional withholding.

Oversight also notes that this proposal appears to require implementation of the Streamlined Sales Tax program in FY 2012. Accordingly, we have indicated additional revenues for FY 2012, and DOR costs to implement and operate the program for FY 2012.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Revenue increase - Streamlined Sales and Use Tax Agreement</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
<u>Revenue increase - Collection fees withheld from local taxes</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Revenue increase - Collection fees retained from TDD's</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Cost - Department of Revenue</u>			
Salaries - 3 FTE	(\$66,670)	(\$74,972)	(\$75,722)
Benefits	(\$34,895)	(\$39,241)	(\$39,633)
Equipment and expense	(\$17,266)	(\$1,547)	(\$1,585)
Total	<u>(\$118,831)</u>	<u>(\$115,760)</u>	<u>(\$116,940)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$118,831) to</u> <u>More than</u> <u>\$100,000</u>	<u>(\$115,760) to</u> <u>More than</u> <u>\$100,000</u>	<u>(\$116,940) to</u> <u>More than</u> <u>\$100,000</u>
Estimated Net FTE Effect on General Revenue Fund	3	3	3
CONSERVATION COMMISSION FUND			
<u>Revenue increase - Streamlined Sales and Use Tax Agreement</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
PARKS, AND SOIL AND WATER FUND			
<u>Revenue increase</u> - Streamlined Sales and Use Tax Agreement	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
SCHOOL DISTRICT TRUST FUND			
<u>Revenue increase</u> - Streamlined Sales and Use Tax Agreement	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
AVIATION TRUST FUND			
<u>Revenue Reduction</u> - elimination of Aviation Fuel Sales Tax	<u>(\$6,000,000)</u>	<u>(\$6,000,000)</u>	<u>(\$6,000,000)</u>
ESTIMATED NET EFFECT ON AVIATION TRUST FUND	<u>(\$6,000,000)</u>	<u>(\$6,000,000)</u>	<u>(\$6,000,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
LOCAL GOVERNMENTS			
<u>Revenue increase</u> - Streamlined Sales and Use Tax Agreement	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
<u>Revenue reduction</u> - Transportation Development Districts collection charges	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Revenue reduction</u> - Collection charges to local governments	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>(Unknown) to</u> <u>More than</u> <u>\$100,000</u>	<u>(Unknown) to</u> <u>More than</u> <u>\$100,000</u>	<u>(Unknown) to</u> <u>More than</u> <u>\$100,000</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which would be required to report sales and to collect and remit Missouri sales and use tax under the agreement.

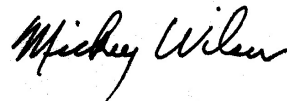
FISCAL DESCRIPTION

The proposed legislation would require the Department of Revenue to implement the Streamlined Sales and Use Tax Agreement..

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of Administration
 Division of Budget and Planning
Department of Conservation
Department of Economic Development
 Division of Tourism
 Public Service Commission
Department of Revenue
Department of Natural Resources
Department of Transportation
Cass County
City of Kansas City
City of Webb City
City of West Plains



Mickey Wilson, CPA
Director
February 15, 2011